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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,151	06/13/2001	Joseph M. Cannon	51-49-7	7432

7590

09/10/2003

Docket Administrator Agere Systems Inc.
P.O. Box 614
Berkeley Heights, NJ 07922-0614

EXAMINER

PEREZ GUTIERREZ, RAFAEL

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/880,151

Applicant(s)
Cannon et al.

Examiner
Rafael Perez-Gutierrez

Art Unit
2686



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 26, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5-7, 23, 31, 33-37, and 39-45 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23, 31, 33-37, and 39-45 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on June 26, 2003. **Claims 1, 5-7, 23, 31, 33-37, and 39-45** are now pending in the present application. **This action is made NON-FINAL.**

Claim Objections

2. **Claim 35** is objected to because of the following informalities:

a) On **line 2** of **claim 35**, replace "the" with --a-- before "wireless" in order to provide proper antecedent basis for "wireless transceiver" in the claim.

Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was

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commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over **McCarthy (U.S. Patent # 5,373,548)** in view of **Bauer (U.S. Patent # 5,406,617)**, both of record.

Consider **claim 1**, McCarthy clearly shows and discloses a cordless telephone (figure 1) comprising:

a base unit 10, including a paging mechanism (i.e., duplex radio transceiver 16 and microprocessor (MCU) 22) (figure 1); and

a portable handset 20, including a loudspeaker 40 (alerting mechanism) responsive to the paging mechanism (i.e., duplex radio transceiver 16 and microprocessor (MCU) 22) (figure 1 and

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column 3 lines 8-52).

However, McCarthy does not specifically shows or discloses that at least one of the base unit 10 and the portable handset 20 includes a page adjusting mechanism to affect a characteristic of a page alerting signal output from the loudspeaker 40 (alerting mechanism) based on a condition.

Bauer clearly shows and discloses a cordless telephone (i.e., base unit 12 and telephone/intercom handset 14) (figures 2 and 3) with an additional intercom unit 10 (page adjusting mechanism) (figure 1) where the base unit 12, when triggered by the intercom unit 10 (page adjusting mechanism) (i.e., a characteristic of an inquiry (page) signal is affected to output the ring signal (e.g., no ring signal is outputted (volume is zero) until the inquiry switch 68 is pressed) (column 4 lines 53-58), causes a ring (alerting) signal at the telephone/intercom handset 12, distinct from the telephone ring signal employed for telephone usage, to be outputted from speaker 52 (alerting mechanism) to announce the intercom page (condition) (figures 1-3 and column 4 line 50 - column 5 line 4). Since Bauer teaches a method and system to alert a cordless telephone handset user to a condition other than a normal call by altering the ring of a cordless telephone handset, it would have been obvious to a person of ordinary skill in the art at the time of the invention to employ the distinctive ring approach taught by Bauer in the cordless telephone system of McCarthy to identify an out-of-range condition.

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Allowable Subject Matter

5. **Claims 23, 31, 33-37, and 39-45** are allowed.
6. **Claims 5-7** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to **claims 23, 31, 33-37, and 39-45** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any response to this Office Action should be **faxed to (703) 872-9314 or mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Hand-delivered responses should be brought to

Crystal Park II

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2021 Crystal Drive
Arlington, VA 22202
Sixth Floor (Receptionist)

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.


Rafael Perez-Gutierrez
R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**
PATENT EXAMINER


MARSHA D. BANKS-HAROLD
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September 6, 2003